

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES STEWART,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:23-cv-00045-SRC
	)	
LOGAN GREEN, et al.,	)	
	)	
Defendants.	)	

**Memorandum and Order**

This matter comes before the Court on Plaintiff James Stewart’s motion for leave to commence this civil action without prepayment of the required filing fee. Doc. 2. For the reasons discussed below, the Court denies the motion without prejudice, but the Court gives Plaintiff twenty-one days in which to either file an appropriate motion or pay the filing fee. Additionally, the Court directs Plaintiff to file an amended complaint on a Court-provided form.

**Motion for Leave to Proceed in Forma Pauperis**

The Clerk of Court in each district court must collect a filing fee from any party “instituting any civil action, suit or proceeding in such court.” 28 U.S.C. § 1914(a). For persons unable to pay the fee, 28 U.S.C. § 1915 allows a party to proceed in forma pauperis. *See Greaser v. State of Mo., Dep’t of Corrs.*, 145 F.3d 979, 985 (8th Cir. 1998). This statute “is designed to ensure that indigent persons will have equal access to the judicial system.” *Id.* Under § 1915, a federal district court may authorize the commencement of a civil action without prepayment of the fees “by a person who submits an affidavit that includes a statement of all assets such [person] possesses.” 28 U.S.C. § 1915(a)(1); *see also* E.D. Mo. L.R. 2.05(A) (“An application to proceed in forma pauperis shall be accompanied by a statement of the applicant’s

financial information set forth on a form provided by the Court. The Court may require the submission of additional information in a particular case.”).

In forma pauperis status, however, “is a matter of privilege, not of right.” *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987) (citing *Startti v. United States*, 415 F.2d 1115 (5th Cir. 1969)). To enjoy the statute’s benefits, a plaintiff must demonstrate that, because of his poverty, he cannot pay for the litigation costs and still be able to provide for the necessities of life. *See Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948). The determination of whether to grant or deny in forma pauperis status under 28 U.S.C. § 1915 is within the sound discretion of the trial court. *Lee v. McDonald’s Corp.*, 231 F.3d 456, 458 (8th Cir. 2000) (citing *Cross v. General Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983)).

In this case, Plaintiff has filed a motion for leave to proceed in forma pauperis, in which he states that he “respectfully request[s] leave to file as a poor person SEE ATTACHED.” Doc. 2. Despite this reference to an attachment, Plaintiff has not attached anything to the motion. As it contains absolutely no financial information whatsoever, the Court denies the motion. The Court directs the Clerk of Court to send to Plaintiff a copy of the Court’s form for motions for leave to proceed in forma pauperis. Within twenty-one days from the date of this order Plaintiff must either file for leave to proceed in forma pauperis or pay the entire filing fee. If Plaintiff fails to comply within this time period, this Court will dismiss this action without prejudice and without further notice.

### **Order to Amend**

Plaintiff is a self-represented litigant who has filed a civil action pursuant to the Age Discrimination in Employment Act and the Americans with Disabilities Act. Doc. 1. The complaint is not on a Court-provided form, as required. *See* E.D. Mo. L.R. 2.06(A) (“All actions

brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms”). Because the complaint is not on a Court-provided form, it lacks important information regarding his case, including whether or not Plaintiff has exhausted his administrative remedies by filing a charge of discrimination with the Equal Employment Opportunity Commission. The complaint also fails to allege any facts demonstrating that Plaintiff experienced discrimination on the basis of his age or disability.

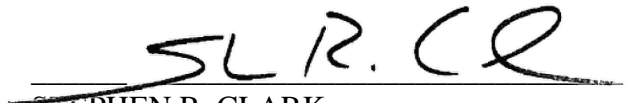
The Court directs the Clerk of Court to send to Plaintiff a copy of the Court’s employment discrimination complaint form. Plaintiff has twenty-one days in which to submit an amended complaint on the Court-provided form. If plaintiff fails to comply within this time period, the Court will dismiss this action without prejudice and without further notice.

### **Conclusion**

The Court denies without prejudice Plaintiff’s motion for leave to proceed in forma pauperis. Doc. 2. The Court directs the Clerk of Court to send to Plaintiff a copy of its form for motions for leave to proceed in forma pauperis. Plaintiff must either file a motion for leave to proceed in forma pauperis or pay the full filing fee within **twenty-one (21) days** of the date of this order. If Plaintiff fails to either file a motion for leave to proceed in forma pauperis or pay the full filing fee within **twenty-one (21) days** of the date of this order, the Court will dismiss this action without prejudice and without further notice.

The Court further directs the Clerk of Court shall send to Plaintiff a copy of the Court’s employment discrimination form. Plaintiff must file an amended complaint on the Court form within **twenty-one (21) days** of the date of this order. If Plaintiff fails to file an amended complaint on the Court form within **twenty-one (21) days** of the date of this order, this action will be dismissed without prejudice and without further notice.

Dated this 6th day of April, 2023.

  
STEPHEN R. CLARK  
CHIEF UNITED STATES DISTRICT JUDGE